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09/917,377	07/28/2001	Michael S. Allison	10018215-1	9960

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EXAMINER

PHAM, KHANH B

ART UNIT PAPER NUMBER

2166

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/917,377	ALLISON ET AL.	
	Examiner	Art Unit	
	Khanh B. Pham	2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The languages of **claims 1-17** raise a question as to whether the claim is directed merely to an abstract idea which would not result in a practical application producing concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C 101.

Claims 18-20 recite "A system for processing events..." However, all components of the system are or could be implemented using software. The claimed system is therefore directed to software per se and therefore rejected as not being tangible.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. **Claims 1-4, 6-20** are rejected under 35 U.S.C. 102(e) as being anticipated by Brundridge et al. (US 2003/0074607 A1), hereinafter "Brundridge".

As per claim 1, Brundridge teaches a method for processing events from electronic architecture, the architecture of the type having one or more entities generating the events (page 1, [0011]), comprising:

- "extracting the events from the architecture" at page 2, [0025], page 4, [0036] and Fig. 1, element 115;

(Brundridge teaches the parsing program is performed to locate error in an error log)

- "separating the events according to the entities" at page 2, [0025] - [0026];

(Brundridge teaches that the events are separated according to the entities. For example, the error log at [0026] only contains events related to the entity "floppy")

- "transforming the events to one or more text string" at page 1, [0012]-[0013], page 2, [0025], and Fig. 1, elements 125.

(Brundridge teaches the step of transforming error event (i.e., event code) into error string, which is related to particular frequently asked question files presented to a user")

As per claim 2, Brundridge teaches the method of claim 1, further comprising the step of "filtering the events" at Fig. 1, elements 135, 140, 145.

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(Brundridge teaches the step of filtering duplicate or redundant events)

As per claim 3, Brundridge teaches the method of claim 1, wherein "the step of extracting the events comprises extracting chassis logs, wherein the step of separating the events comprises separating the chassis logs, and wherein the step of transforming events comprises transforming the chassis logs to text string" at page 2, [0025] and Fig. 1.

(Brundridge teaches the steps of extracting, separating and transforming events from error logs, wherein the logs are generated by "a diagnostic program directed to a particular device", and "the diagnostic can be build into the device". Therefore Brundridge's error logs are equated to applicant's chassis log. Further, a well-known name for "chassis log" is Event Logs, which is similar to Brundridge's error logs.)

As per claim 4, Brundridge teaches the method of claim 1, further comprising the step of "coupling a getcc extraction tool to the architecture" at page 2, [0025].

(Brundridge uses a parsing program written in JAVA language to extract event from the architecture)

As per claim 6, Brundridge teaches the method of claim 1, "the architecture being a server, and wherein the step of extracting events from the architecture comprises extracting events from the server" at page 5, [0058] - [0059] and Fig. 4.

As per claim 7, Brundridge teaches the method of claim 1, wherein “the step of transforming comprise converting a binary representation of the events to the text strings” at page 2, [0025].

As per claim 8, Brundridge teaches the method of claim 1, further comprising the step of “analyzing the text strings and producing a human interpretable statement summarizing at least one of the events associated with the text strings” at page 4, [0038] and Fig. 3.

As per claim 9, Brundridge teaches the method of claim 1, wherein “the entities comprises one or more of firmware, software, processors, architecture monitors, power monitors, cabinet monitors, and I/O drivers” at Fig. 5.

As per claim 10, Brundridge teaches the method of claim 1, further comprising the step of “controlling one or more steps of extracting, separating and transforming via one or more command line options” at page 2, [0025] and [0028].

As per claim 11, Brundridge teaches the method of claim 10, further comprising “controlling one or more steps of extracting, separating, and transforming according to one or more configuration files” at page 4, [0039].

As per claim 12, Brundridge teaches the method of claim 10, wherein “the step of controlling comprises inputting the command line options via a graphic user interface” at page 2, [0027] - [0028].

As per claim 13, Brundridge teaches the method of claim 10, wherein “the step of controlling comprises updating the command line option automatically from the architecture” at page 2, [0027] - [0028].

As per claim 14, Brundridge teaches the method of claim 1, further comprising “specifying one or more cells of the architecture, and extracting the event from the one or more cells” at page 2, [0025].

As per claim 15, Brundridge teaches the method of claim 1, further comprising “specifying one or more processors of the architecture, and extracting the events only from the one or more processors” at page 2, [0025].

As per claim 16, Brundridge teaches a method of claim 1, further comprising the step of “saving a log file representative of the event” at page 2, [0026].

As per claim 17, Brundridge teaches the method of claim 1, further comprising the step of: “transmitting the text string to one or more analyzers associated with one or more entities and analyzing the text string at the one or more analyzers” at page 5, [0057].

As per claim 18, Brundridge teaches a system for processing events from electronic architecture, the architecture of the type having one or more entities generating the events (Figs. 4-5) comprising:

- “an extraction tool for extracting the events from the architecture (page 4, [0036] and Fig. 1, element 115; separating the events according to the entities (page 2, [0025]), and transforming the events to one or more text string” at page 1, [0012]-[0013] and Fig. 1, elements 125;
- “an interface for coupling the extraction tool to one or more of the architecture and a log file storing the events from the architecture” at page 2, [0025] - [0026].

As per claim 19, Brundridge teaches the system of claim 18, wherein “the entities comprise one or more of firmware, software, processor, architecture monitors, power monitors, cabinet monitors, and I/O drivers, and wherein the events comprise chassis logs from one or more of the firmware, software, processors, architecture monitors, power monitors, cabinet monitors, and I/O drivers” at page 2, [0025] and Figs. 4-5.

As per claim 20, Brundridge teaches the system of claim 18, further comprising one or more analyzers coupled to the extractor tool, the analyzers processing the text string into one or more human interpretable statements summarizing at least one of the events associated with the text string” at page 4, [0038] and Fig. 3.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brundridge as applied to claims 1-4, 6-20 above, and in view of Leong et al. (US 6,269,398 B1), hereinafter "Leong".

As per claim 5, Brundridge teaches the method of claim 4 discussed above. Brundridge does not explicitly teach: "the step of coupling comprising utilizing telnet". However, telnet is a well-known protocol for remote accessing, which is used to access diagnostic information from a remote system, as exemplary by Leong at Col. 2, lines 28-40. Leong teaches: "the telnet protocol provides a terminal emulation capability allowing a network manager to issue command (such as command requesting diagnostic information) from other device in the network". Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Leong and Brundridge's teaching so that the diagnostic information could be retrieved not only from a local machine but also from a remote machine. Utilizing telnet to access diagnostic information as suggest by Leong would allow Brundridge's system to diagnose and provide technical support to remote users.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

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F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1, 8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of copending Application No. 09/918, 425. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 11 of copending application 09/918,425 include all limitations of claim 1 and 8 of the instant application and therefore not patentably distinct from each other, see table below.

Claims 1 and 8 of the Instant applicant	Claim 11 of 09/918,425
<p>1. A method for processing events from electronic architecture, the architecture of the type having one or more entities generating the events, comprising the steps of: extracting the events from the architecture; separating the events according to the entities; and transforming the events to one or more text strings.</p> <p>8. A method of claim 1, further comprising the step of analyzing the text strings and producing a human interpretable</p>	<p>1. A method for analyzing text strings associated with events from electronic architecture, the architecture of the type having one or more entities generating the events, comprising the steps of: processing the text strings; and transforming the text strings to human interpretable statements summarizing at least one of the events associated with the text strings.</p> <p>10. A method of claim 1, further comprising the step of acquiring the text strings from</p>

statement summarizing at least one of the events associated with the text strings.	an extraction tool coupled to the architecture. 11. A method of claim 10, the extraction tool extracting the events from the architecture, separating the events according to the entities, and transforming the events to one or more text strings.
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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

9. Applicant's arguments filed December 16, 2005 have been fully considered but they are not persuasive. The examiner respectfully traverses applicants' arguments.

Claim Rejection - 35 U.S.C § 101.

Regarding claims 1-17, applicants argued that the claimed method have statutory subject matter in that they transform binary data into a human readable form (text strings). These text string may be output to a log file if so request by a user. The claims therefore have use as a practical application wherein persons may review text regarding chassis codes. The examiner respectfully submits that none of the claims recite the step of outputting the text string to a log file to be used by a user as argued. The claimed method is therefore directed merely to an abstract idea which would not result in a

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practical application producing concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C 101.

Regarding claims 18-20, applicants argued that the claimed system 100 “includes getcc processing section 102, analyzer 120 which, as described, **are software tools**. Therefore, system 100 is clearly a computer system with processing capabilities”. The examiner respectfully submits that the system of claims 18-20 comprise **only software** components, as argued by applicants, and do not include any hardware component so that the functionality of the system could be realized. The claimed system is therefore comprises software per se and is rejected as being intangible.

Claim Rejection - 35 U.S.C § 102

Claim 1:

Appliant's claim 1	<u>Brundridge (US2003/0074607) at [0025]</u>
(A) extracting the events from the architecture	“the error log can be parsed in order to locate the error strings that are compared to the known value”
(B) separating the events according to the entities	“diagnostic program directed to the particular device” The sample error log at [0026] contains only events for the Floppy drive entity.
(C) transforming the events to one or more text strings	“Upon detection of string compares, the parsing program assembles the appropriate FAQ to be displayed to the end-user to utilize in self-repair of the system.”

Regarding step (A), applicants argued that Brundridge does not disclose “extracting the events from the architecture”. On the contrary, Brundridge teaches at [0025] the step parsing (i.e. “extracting”) error string (i.e., “events”) from an error log generated by a diagnostic program, wherein the diagnostic program is built into a device (i.e., “the architecture”) as claimed.

Regarding step (B), applicants argued that Brundridge does not teach “separating the events according to the entities”. On the contrary, Brundridge teaches a sample error log at [0026] contain only events for the Floppy drive entity.

Regarding step (C), applicant argued that “Brundridge’s transformation of events into FAQs do not involve processes and feature, or purpose, of element (C)” but does not explain which processes, feature or purpose of element (C) are patentable over Brundridge. On the other hand, as seen above, Brundridge teaches the step of transforming error events into appropriate FAQs (i.e., text string) to help user in self-repair of the system.

Claims 2-4 and 6-17:

Regarding claim 2, applicants argued that Brundridge “discards duplicate events” but does not teach “filtering the events”. The examiner respectfully submits that “discards duplicate events” is same as “filtering the events”, unless applicants provide different definition for “filtering”.

Regarding claim 3, applicant argued that Brundridge’s “error log” is not same as claimed “chassis logs”. The examiner respectfully submits that Brundridge’s “error log” containing error codes are generated by the diagnostic program which is built into a

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device ([0025]), therefore the error codes are generated by the device, or “the entity” as claimed. Further, it is noted that the features upon which applicant relies (i.e., “the error codes of Brundridge are simple codes, whereas chassis codes are formed of two 64-bit numbers”) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claim 4, applicants argued that Brundridge does not teach the extracting tool for extracting events from an electronic architecture. On the contrary, Brundridge teaches at [0025] a parsing program to parse (i.e., “extract”) error codes (i.e., “events”) from an error log generated by a diagnostic program build into a device (i.e., “the architecture”).

Regarding claim 6, applicants argued that Brundridge does not teach “extracting events from servers”. On the contrary, Brundridge teaches at Fig. 4 that at least one of the devices is a server 410.

Regarding claim 7, applicants argued that Brundridge does not teach “converting a binary representation of the events to the text string”. On the contrary, Brundridge teaches “an “errorlevel” condition can be a “0” for **pass** or a “1” for **fail**” and “Once an “errorlevel” condition other than “0” is received, the error log can be parsed in order to locate the **error strings**”. Clearly, Brundridge converts binary “0” and “1” to text string “pass” and “fail”, and further uses the error log to locate the error strings.

Regarding claims 8, 20, applicants argued that Brundridge does not disclose “producing a human interpretable statement summarizing at least one of the events

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associated with the text strings". On the contrary, Brundridge teaches "the parsing program assembles the appropriate FAQs to be displayed to the end-user to utilize in self-repair of the system". The content of the FAQs is the statement summarizing the error events because it provides suggested solutions to the errors.

Regarding claims 9, 19, applicants argued that Brundridge does not disclose "extracting events from one or more entities". On the contrary, Brundridge teaches at [0025] a parsing program to parse (i.e., "extract") error codes (i.e., "events") from an error log generated by a diagnostic program build into a device (i.e., "the one or more entities").

Regarding claims 10, 12, applicants argued that Brundridge does not disclose "command line options". On the contrary, Brundridge teaches at [0028] that: "When a diagnostic test is ran, and if the "errorlevel" returned by **the command line program** is non-zero, a program is called to parse the error log".

Regarding claim 11, applicants argued that Brundridge does not disclose "a configuration file for controlling one or more steps of extracting, separating and transforming". On the contrary, Brundridge teaches at [0039] an HTML template file (i.e., "configuration file"), which is used in the transformation step to display the FAQs to an end-user.

Regarding claim 13, applicant argued that Brundridge does not teach "updating the command line options automatically from the architecture". On the contrary, Brundridge teaches at [0028] the command line program interacts with the devices to receive updated events and generates "errorlevel" automatically.

Regarding claims 14, 15, applicants argued that Brundridge does not teach “specifying one or more cells or processor of the architecture and extracting the events only from the one or more cells or processor”. On the contrary, Brundridge teaches extracting events from devices within a computer system. If the whole computer system is considered an architecture, then each device is a cell of the architecture.

Regarding claim 16, applicants argued that Brundridge does not teach “saving a log file representative of the events”. On the contrary, Brundridge teaches at [0025] that “the error strings are placed in an error log”.

Regarding claim 17, applicant argued that Brundridge does not teach “transmitting the text string to one or more analyzers associated with one ore more entities for analysis”. On the contrary, Brundridge teaches at [0057] the step of presenting the text strings to an user for further analysis.

Regarding claim 18, applicants argued that Brundridge does not teach “an interface for coupling the extraction tool to one or more of the architecture and a log file for storing the events from the architecture”. On the contrary, Brundridge teaches at [0025] the diagnostic command line application for returning “errorlevel” from the device to the parsing program, and an error log for storing events from the devices.

Claim Rejection - 35 U.S.C § 103

Regarding claim 5, applicant argued that the combination of Brundridge and Leong does not teach: “extracting events from entities of an electronic architecture”. On the contrary, Brundridge teaches at [0025] the step parsing (i.e. “extracting”) error string

(i.e., "events") from an error log generated by a diagnostic program, wherein the diagnostic program is built into a device (i.e., "the architecture") as claimed.

Claim Rejection - Double Patenting

The provisional double patenting rejection is remained in this Office Action since applicant did not provide any arguments nor file a terminal disclaimer to overcome the rejection.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh B. Pham whose telephone number is (571) 272-

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4116. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khanh B. Pham
Examiner
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A handwritten signature in black ink, appearing to read 'K. Pham', with a long horizontal flourish extending to the right.

March 1, 2006